IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.7676 OF 2004

Anita Ankush Bongane Petitioner

versus

The General Manager,
State Bank of India
and others Respondents

Sachin Manale, adv. for petitioner.

Mrs.N.S.Don i/by Theba & Associates, adv. for respondents.

CORAM : A.P.SHAH AND
S.C.DHARMADHIKARI, JJ.

DATE : 20th October 2004

PC :

1. Heard parties. This petition challenges rejection of petitioner's request for employment on compassionate grounds by respondents.

2. Husband of petitioner was holding post of Senior Assistant in Bank of India, Hadapsar Branch. He expired on 4th June 2003. At the time of his death, he was 45 years of age and had 17 years of service left at his disposal.

3. It appears that petitioner was nominated for the purpose of receiving Gratuity by the deceased husband. Accordingly, amount of Gratuity has been paid to her. Petitioner is residing with her son and mother in law. She is having no source of income other than family pension.

4. On 29th August 2002, she applied for appointment on compassionate grounds. She is S.S.C. and also trained in operation of Computer. According to her, she is otherwise eligible for being considered for appointment in clerical cadre.

5. The request made by petitioner has been rejected by the competent authority of State Bank of India (respondents herein) on the ground that financial position of petitioner does not necessitate appointment on compassionate ground.

6. Petitioner once again approached the respondents after receipt of this communication. She pointed out that it is erroneous to assume that her financial position is sound and that there are no liabilities. She pointed out that the pension is too meagre and is likely to be reduced. She, therefore, once again requested that appointment be made on compassionate ground.

Since first representation did not meet any favourable response, petitioner applied once again on 16th August 2004. Since this representation also has not been considered favourably, she was constrained to approach this Court under Article 226 of Constitution of India.

7. We have heard Mr.Manale, learned counsel appearing for petitioner and Mrs.Don for respondents.

8. With their assistance we have perused the impugned communications. It is true that there is a power conferred on authorities like respondents to reject such requests in the light of financial position of dependents. It is now well settled that request of present nature can be rejected, if the authorities are satisfied that retiral benefits are enough to mitigate hardships and there is no need to appoint dependents of deceased on compassionate grounds. However, ultimately, this is on case to case basis. Merely because retiral benefits have been offered, straight way such requests cannot be rejected, unless the bank applies it’s mind to all aspects and reaches at a conclusion that the hardships have been adequately mitigated. Request can be rejected on account of retiral

benefits being offered and such rejection has now been upheld by Hon'ble Supreme Court. However, in the present case, two important aspects have been pointed out to us. First, is that the bank in accordance with the scheme, while exercising it's discretion, must look into hardships and attendant circumstances. The factors as set out in the scheme are income of the member of family, size of family, assets and liabilities of family and other relevant considerations. This aspect is clear if one peruses clause (j) of para 3 of the scheme. Proviso to this clause also throws light on the object and principles of such schemes. Secondly, our attention has been invited by Mr.Manale to a communication dated 18th September 2002 by which family pension is going to be periodically reduced.

9. In our view, it will be desirable and in the interest of justice if bank applies it's mind afresh to the present status of dependents and more particularly petitioner herein. Considering the representations and present financial status, it will be in the interest of justice, if Bank is directed to reconsider petitioner's request for appointment on compassionate ground. We are inclined to issue this direction in the light of contention of Mr.Manale that the communication

dated 28th October 2002 cannot prevent the petitioner from applying again, if financial hardships so warrant. In other words, the impugned communication is dated 28th October 2002 whereas petitioner has been representing in 2003 and 2004. In the light of above, we direct respondents to reconsider petitioner's request made on 16th August 2004 for appointment on compassionate ground and pass appropriate orders thereon in accordance with law within a period of three months from today. Petition disposed of.

(A.P.SHAH, J.)

(S.C.DHARMADHIKARI, J.)